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Preliminary working document submitted by France on behalf of the Group of Seven Major Industrialized Countries and the Russian Federation

# International Convention for the Suppression of Terrorist Bombings

The General Assembly,

Considering that the progressive development and codification of international law contribute to the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Mindful of the need to conclude, under the auspices of the United Nations, an international convention for the suppression of terrorist bombings,

Recalling its resolution 49/60 of 9 December 1994, approving the Declaration on Measures to Eliminate International Terrorism,

Further recalling its resolution 51/210 of 17 December 1996 which established the ad hoc committee to draft an International Convention for the Suppression of Terrorist Bombings,

Having considered the draft Convention prepared by the ad hoc committee in pursuance of resolution 51/210,

Adopts and opens for signature and ratification or for accession the International Convention for the Suppression of Terrorist Bombings, the text of which is annexed hereto.

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* Reissued for technical reasons.

ANNEX

International Convention for the Suppression of Terrorist Bombings

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms,

Recalling the Declaration on Measures to Eliminate International Terrorism annexed to General Assembly resolution 49/60 of 9 December 1994, in which, inter alia, "[t]he States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods and practice of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States",

Recalling further that the Declaration also encouraged States "to review urgently the scope of the existing international legal provisions on the prevention, repression and elimination of terrorism in all its forms and manifestations, with the aim of ensuring that there is a comprehensive legal framework covering all aspects of the matter",

Noting that terrorist attacks by means of bombs, explosives or other incendiary or lethal devices have become increasingly widespread,

Noting further that existing multilateral legal provisions do not adequately address these attacks,

Being convinced of the urgent need to enhance international cooperation between States in devising and adopting effective and practical measures for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Have agreed as follows:

Article 1

For purposes of this Convention:

1. "Government facility" includes any permanent or temporary facility or conveyance, wherever located, used or occupied by civilian or military employees

of a governmental or administrative authority in connection with the employees' official duties, whether such facility is owned, leased, possessed or otherwise utilized by such authority.

2. "Infrastructure facility" includes any publicly or privately owned facility providing or distributing services for the benefit of the public, including water, sewage, energy, fuel or communications.

3. "Lethal device" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury through the release, dissemination or impact of:

(a) Toxic chemicals;

(b) Biological agents or toxins;

(c) Radiation or radioactive material.

4. "Organized military forces of a State" means the armed forces of a State which are organized, trained and equipped for the primary purpose of national self-defence, and persons who are authorized to accompany those armed forces.

5. "Place of general public use" includes any building, land, street, waterway or other locations that are accessible or open to members of the public in whole or in part, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

6. "Public transportation system" includes all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for the transportation by ground, sea or air of persons or cargo.

## Article 2

1. Any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally delivers, places, discharges or detonates a bomb, explosive or incendiary device, or lethal device in, into or affecting a place of general public use, a government facility, a public transportation system or an infrastructure facility:

(a) With the intent to cause death or serious bodily injury; or

(b) Under circumstances which indicate that the person knew or should have known that his conduct would create a substantial risk of death or serious bodily injury.

2. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1.

3. Subject to the constitutional principles and the basic concepts of the legal systems of States Parties, a person also commits an offence if that person engages in conduct which constitutes participation in, association or conspiracy to commit, or aiding, abetting, facilitating or counselling the commission of an offence as set forth in paragraph 1.[1]

Article 3

1. This Convention shall not apply to the delivery, placement, discharge or detonation of a bomb, explosive or incendiary device, or lethal device, by the organized military forces of a State.

2. Nothing in this Convention shall be interpreted as detracting from other obligations imposed upon States by international humanitarian law.

Article 4[2]

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5[3]

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State;

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

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[1] United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 ("UN Narcotics Convention"), article 3.1 (c) (iv).

[2] International Convention against the Taking of Hostages, 1979 ("Hostages Convention"), article 2; Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 ("IMO Maritime Navigation Convention"), article 5.

[3] Adaptation of Hostages Convention, article 5; IMO Maritime Navigation Convention, article 6.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State;

(b) The offence is committed by a stateless person who has his habitual residence in the territory of that State; or

(c) The offence is committed in an attempt to intimidate, coerce or retaliate against a civilian population of that State or to compel that State to do or abstain from doing any act.

3. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 or 2 of this article.[4]

4. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.[5]

Article 6

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its laws, take that person into custody or take other measures to ensure that person's presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.[6]

2. Such State shall immediately make a preliminary inquiry, in accordance with its own legislation.[7]

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to establish such communication or, if that person is a stateless person, the State in the territory of which that person habitually resides;

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[4] Hostages Convention, article 6 (4); IMO Maritime Navigation Convention, article 5 (2).

[5] United Nations Narcotics Convention, article 4.3.

[6] Hostages Convention, article 6 (1); IMO Maritime Navigation Convention, article 7 (1).

[7] Hostages Convention, article 6 (1); IMO Maritime Navigation Convention, article 7 (2).

(b) Be visited by a representative of that State.[8]

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.[9]

5. The provisions of paragraphs 3 and 4 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 5 (1) (c) to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.[10]

6. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 5, paragraph 1, and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.[11]

Article 7[12]

1. The State Party in the territory of which the offender or the alleged offender is found shall, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. If a State Party would be permitted under its law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve any sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and the State seeking the extradition of the person agrees to that condition, such a

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[8] Hostages Convention, article 6 (3); IMO Maritime Navigation Convention, article 7 (3).

[9] Hostages Convention, article 6 (4); IMO Maritime Navigation Convention, article 7 (4).

[10] Hostages Convention, article 6 (5).

[11] IMO Maritime Navigation Convention, article 7 (6).

[12] Hostages Convention, article 8; IMO Maritime Navigation Convention, article 10 (para. 2 of article 7 is a new proposal).

conditional extradition or surrender shall be sufficient to obviate the obligation set forth in paragraph 1.

3. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 2 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which that person is present.

Article 8

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.[13]

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.[14]

3. State Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.[15]

4. The offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with paragraph 1 of article 5.[16]

5. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties

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[13] Hostages Convention, article 10 (1); IMO Maritime Navigation Convention, article 11 (1).

[14] Hostages Convention, article 10 (2); IMO Maritime Navigation Convention, article 11 (2).

[15] Hostages Convention, article 10 (3); IMO Maritime Navigation Convention, article 11 (3).

[16] Hostages Convention, article 10 (4).

are modified as between State Parties to the extent that they are incompatible with this Convention.[17]

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.[18]

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford one another assistance in accordance with their national law.[19]

Article 10

1. A person in the custody of one State Party whose presence in another State Party is requested for purposes of testimony, identification or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention shall be transferred if:

(a) The person consents; and

(b) The competent authorities of both States agree, subject to such conditions as those States may deem appropriate.

2. For purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall return the person to the custody of the State from which the person was transferred as soon as circumstances permit or as otherwise agreed by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

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[17] Hostages Convention, article 9 (2); IMO Maritime Navigation Convention, article 11 (7).

[18] Hostages Convention, article 11 (1); IMO Maritime Navigation Convention, article 12 (1).

[19] IMO Maritime Navigation Convention, article 12 (2).

(d) The person transferred shall receive credit for service of the sentence imposed in the State from which he was transferred for time served in the custody of the State to which he was transferred.

Article 11[20]

States Parties shall cooperate in the prevention of the offences set forth in article 2, particularly by:

(a) Taking all appropriate measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;

(b) Exchanging information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 2.

Article 12[21]

The State Party where the alleged offender is prosecuted shall, in accordance with its laws, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties concerned. This requirement shall not apply where no other State Party has jurisdiction under article 5.

Article 13[22]

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice, by request, in conformity with the Statute of the Court.

2. Each State may at the time of ratification or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The

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[20] IMO Maritime Navigation Convention, article 13 (1).

[21] Hostages Convention, article 7.

[22] Hostages Convention, article 16; IMO Maritime Navigation Convention, article 16.

other States Parties shall not be bound by paragraph 1 of this article with respect to any State party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 14[23]

1. This Convention shall be open for signature by all States until [date] at United Nations Headquarters in New York.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is subject to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 15[24]

1. This Convention shall enter into force on the thirtieth day following the date of the deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 16[25]

1. Any State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

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[23] Hostages Convention, article 17.

[24] Hostages Convention, article 18.

[25] Hostages Convention, article 19.

Article 17[26]

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at New York on [date].

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[26] Hostages Convention, article 20.